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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

Contents

		Page
I.	General	3
II.	Constitutional, legal and political issues	3
III.	Budget	6
IV.	Economic conditions	6
	A. General	6
	B. Fisheries and agriculture	6
	C. Tourism	7
	D. Transport and communications	7
	E. Water, sanitation system and utilities	8
V.	Social conditions	8
	A. General	8
	B. Labour and immigration	8
	C. Education	9
	D. Public health	9
	E. Crime and public safety	10
VI.	Environmental protection and disaster preparedness	10
VII.	Relations with international organizations and partners	11

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VIII. Future status of the Territory 11
A. Position of the territorial Government 11
B. Position of the administering Power 11
C. Action by the General Assembly 12

I. General

1. American Samoa is a Non-Self-Governing Territory administered by the United States of America under the Department of the Interior, which has a representative resident on the ground.[1] The Territory is located in the South Pacific, approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands, namely, Tutuila, Aunuu, Ofu, Olosega and Ta'u (known as the Manu'a Islands) and two coral atolls, Swains and Rose, as well as several lesser islands. The total land area is approximately 200 square kilometres, mostly covered by dense forest. Tutuila, the largest island, is where the capital, Pago Pago, and one of the deepest harbours of the South Pacific, are located. Tutuila Island constitutes 70 per cent of the Territory's total land area and is home to nearly 100 per cent of the population. It is believed that the Samoan archipelago was settled some 3,000 years ago by people migrating from South-East Asia. The Dutch were the first Europeans to discover these islands in 1722. Some Dutch settlers came to the islands in the early 1800s, followed by missionaries in 1830.

2. According to a federal source, in July 2010, the population of American Samoa was estimated at 66,432, with a median age of 23.4 and an estimated sex ratio of 1.02 males per female. Approximately 33 per cent of the population is under the age of 15. Urban dwellers make up about 92 per cent of the total population and the estimated net migration rate amounted to approximately -6.99 per thousand. Approximately 91,000 American Samoans live outside the Territory mostly in the states of Alaska and Hawaii and in the contiguous United States.

3. Ethnically, the population is about 90 per cent Samoan/Polynesian. Christian Congregationalist denominations represent the religion practised by 50 per cent of the people, and some 20 per cent are Roman Catholic. Most American Samoans are bilingual, speaking the native Samoan language and English.

II. Constitutional, legal and political issues

4. By the late 1800s, internal strife among the chiefs of the islands of the Samoan archipelago and struggles among the colonial Powers of Germany, the United Kingdom of Great Britain and Northern Ireland and the United States led to a period of instability. Deeds ceding these islands to the United States from the early 1900s were accepted by an Act of Congress on 20 February 1929. Pursuant to that Act, American Samoans were given the status of United States nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States. As the United States interest in the area had been mainly military, the Territory was placed

Note: The information contained in the present working paper has been derived from public sources, including those of the territorial Government, and from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations.

[1] Secretary's Order 2657 of 29 August 1951 and Secretary's Order 3009, as amended, of 3 November 1977, set forth the extent and nature of the authority of the Government of American Samoa and the manner in which the authority is to be exercised (see the Electronic Library of Interior Policies, United States Department of the Interior, http://elips.doi.gov/elips/release/3421.htm).

under the jurisdiction of the United States Navy. On 29 June 1951, Executive Order 10264 of the United States President transferred administrative responsibility for the Territory to the Department of the Interior.

5. American Samoa is an "unincorporated and unorganized" Territory under United States law. Not all provisions of the United States Constitution or of United States law apply. Residents of American Samoa are not United States citizens. They are United States nationals who can freely enter the United States and work or reside anywhere they choose. Children born in the Territory to foreign parents become citizens of either the mother's or the father's country of origin, not United States nationals. American Samoans may not vote in general elections in the United States, but are permitted to participate in presidential primaries and caucuses.

6. The Constitution of American Samoa, adopted in 1960, was revised in 1967 and subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress. In 2008, a referendum that would have revised an aspect of the Constitution was narrowly defeated. The June-July 2010 Constitutional Convention proposed amendments or revisions to the current Constitution, including, inter alia, those related to the prohibition of further individualization of communal lands in the Territory, the establishment of an impartial jury in all criminal prosecutions, the enhancement of the Samoan language and culture in the educational system, the management and preservation of the natural resources of the Territory in accordance with local laws, and the provision for an impeachment of the Territory's leaders. However, at the November 2010 general election, the voters overwhelmingly defeated the proposed changes.

7. The Territory's Constitution provides for separate executive and legislative branches and an independent judiciary. The executive branch comprises a Governor and a Lieutenant-Governor elected for four-year terms by universal adult suffrage. All American Samoans over 18 years of age are eligible to vote. The Governor is responsible for executing both American Samoan and United States laws and has veto power with respect to legislation passed by the "Fono", the American Samoa Legislature.

8. In November 2008, Governor Togiola T. A. Tulafono was re-elected, as was Lieutenant-Governor Faoa Ipulasi A. Sunia. Their terms of office will expire in November 2012, when the next elections are due to be held. As previously reported, in September 2007, Lieutenant-Governor Sunia was taken into custody by the United States Federal Bureau of Investigation and later released, in connection with contracts related to the Territory's Department of Education. Pending conclusive legal action, Mr. Sunia, who entered a "not guilty" plea in federal court in Washington, D.C., continues to serve as Lieutenant-Governor. In February 2010, the trial was ended by a federal judge declaring a mistrial after the jury failed to reach a verdict.

9. The Fono is a bicameral legislature, comprising an 18-member Senate, whose members are chosen by 14 tribal councils, and a 21-member House of Representatives, 20 of whom are elected by popular vote and 1 of whom is appointed as a non-voting delegate from Swains Island. Only a "matai", the traditional chief of an extended family, or "aiga", can become a senator. Senators hold office for a four-year term and representatives for a two-year term. The Fono may pass laws with respect to all local affairs, provided they are not inconsistent

with United States laws in force in the Territory or with United States treaties or international agreements.

10. Since 1981, American Samoa has elected by direct vote a delegate to the United States House of Representatives for a two-year term. The delegate may vote in committees and on the floor except on final passage. During the 2010 general election, Mr. Eni F. H. Faleomavaega was re-elected for a twelfth consecutive two-year term to the United States Congress.

11. The judiciary system consists of the High Court, for which the Chief Justice and the Associate Justices are appointed by the United States Secretary of the Interior, and the local district and village courts, for which the judges are appointed by the Governor. The High Court is separated into Appellate, Trial, Land and Titles, and Family, Drug and Alcohol divisions. The United States Congress has granted limited federal jurisdiction to the High Court to hear certain cases that involve federal statutory issues. Examples of federal judicial power delegated to the High Court include the authority to decide Occupational Safety and Health Administration issues and ship mortgage actions in American Samoa. Other matters of federal law arising in the Territory are adjudicated in the United States district courts, mainly the federal courts in Hawaii and Washington, D.C. Since American Samoa is not part of a United States federal judicial district or circuit, there are no statutory provisions for appealing decisions of the High Court to a federal district court.

12. In his statement at the Pacific Regional Seminar in Nouméa, New Caledonia, on 19 May 2010, the Governor of American Samoa recalled that in the past, the Territory had requested the Special Committee to remove it from the list of Non-Self-Governing Territories because its "unincorporated" and "unorganized" status was akin to that of a self-governing Territory. The Governor continued by saying that while the Territory held the same position, the time had come for a more definitive workplan to force a more collaborative approach between the Territory and the administering Power in moving forward on issues of political status, local autonomy, self-governance and economic development.

13. The Governor further noted the special affinity of the people of American Samoa with the administering Power, manifested in the significant number of them serving in the United States armed forces, and the trust which allowed the Territory to maintain its authority over immigration and customs. However, there was cause for concern that the said authority was being exercised by the United States federal Government at the Territory's expense and that furthermore, American Samoa was being restricted in its use of land and its freedom to dispose of the grants allocated to it by the administering Power. In addition, United States minimum wage laws introduced in the Territory had caused serious, perhaps irreparable, economic damage. The absence of federal technical assistance and expertise to help American Samoans truly understand the effect of federal laws on the Territory's economy and form of government was also lamented.

14. The Governor stressed that those issues could be resolved by applying a clearly specified, consistent principle as to how the Territory would be treated in the future. He underlined the importance of providing assistance and training on issues critical to the Pacific region and in that connection, he requested the Special Committee to pay a visit to American Samoa during its constitutional convention.

III. Budget

15. According to the administering Power, the budget of the territorial Government for the fiscal year 2011, which began on 1 October 2010, is approximately $466 million, as proposed by the Government of American Samoa (a 39 per cent increase over the 2010 fiscal year budget). Meanwhile, a $7.2 million revenue shortfall is expected for 2011. In this regard, the Legislature of the Territory is reported to be considering an increase in the minimum income tax by 2-4 per cent. Another measure being considered to offset the shortfall is a tax increase on cigarettes, alcohol, sweet drinks and imported bottled water. Revenues of the Government of American Samoa consist of federal support (approximately 60 per cent) and locally generated revenues (approximately 40 per cent).

IV. Economic conditions

A. General

16. The September 2009 closure of the Chicken of the Sea Samoa Packing tuna cannery, as a result of which more than 2,000 workers lost their jobs, could have major consequences for the local economy. The vacant plant has since been taken over by the United States-based Tri Marine International, which will operate the facility in Pago Pago as Samoa Tuna Processors. The new company is expected to produce high-quality tuna for sale primarily in the United States and Japan. Also, during the demolition and construction phases of the new cannery, the company is expected to hire local workers unless the specialized skills of off-island workers are required. At this stage it is not clear what impact the construction of a new plant will have on the overall level of employment.

17. In 2010, American Samoa was awarded nearly $166 million under the American Recovery and Reinvestment Act, of which only $29 million had been spent at the end of January 2011. The main reason for the delay as cited by the territorial Government was the non-compliance by the departments with the regulations governing the recovery funds as well as overwhelming requirements for reporting on disbursed funds.

18. The Territory's largest trading partner is the United States, followed by Australia, India, Indonesia, Japan and New Zealand. As previously reported, American Samoa imports some 90 per cent of goods and products, including food and petroleum products, machine parts, building materials, textiles and clothing.

B. Fisheries and agriculture

19. In his 2011 State of the Territory address, the Governor indicated his intention to request the administering Power's assistance for the fishing industry. According to him, the territorial Government and the federal authorities were currently dealing with issues related to changes in the laws that regulated fishing boats and the catch delivered to the Territory. He said that due to modifications in the business agreements between the Tri Marine and Low-in-Tide companies, fish would soon be prepared for the American and Japanese markets. In this context, he stressed that the corresponding laws governing export activities should be adjusted accordingly.

20. Almost 90 per cent of all farms in the Territory operate on a subsistence basis, and prospects for agricultural development continue to be limited owing to the small amount of level land suitable for cultivation. At the same time, farmers in American Samoa benefit from assistance provided by the Natural Resources Conservation Service of the United States Department of Agriculture and its Environmental quality incentives programme.

C. Tourism

21. Despite its tremendous potential, including its pristine beaches and coasts, green mountains, friendly locals and rich island life traditions, American Samoa is still relatively unrecognized by tourists, possibly because of its remote location.

22. In his 2011 State of the Territory address, the Governor said that he would continue to seek support from the United States Congress and the Department of the Interior to address the air transportation problem between American Samoa and Hawaii. In his view, the cabotage laws stood in the way of the Territory developing the tourism industry. The fares between Hawaii and the west coast of the United States were estimated at $500 while those between Hawaii and American Samoa were estimated at $1,200 or more. This situation, in his view, undermined any plans to develop tourism in the Territory. He also intended to request permission for flights between American Samoa and Australia, China, New Zealand and the Republic of Korea.

23. The tourism industry comprises approximately 7 per cent of the economy and a few businesses sell exclusively to the local market. According to the Visitors Bureau, in 2010 the Territory had 249 hotel rooms operating at less than 50 per cent occupancy.

D. Transport and communications

24. There are approximately 180 kilometres of public and primary paved roads and 235 kilometres of secondary village roads in American Samoa. The Federal Highway Administration Hawaii Federal-Aid Division has approved $49.3 million in emergency relief funds for the Territory's roads that were damaged by the earthquake and the tsunami on 29 September 2009.

25. Pago Pago harbour, an all-weather deep-draught harbour, is one of the best natural deep-water harbours in the South Pacific and is of strategic importance to the region. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. The harbour provides the full complement of equipment and facilities. Its ship repair facility features a 3,000-ton marine railway.

26. The four airports in the Territory are situated on the islands of Tutuila, Ofu, Olosega and Ta'u, respectively. Pago Pago International Airport is owned and operated by the territorial Government. The main airport is regularly served by a number of airlines that link American Samoa with Hawaii and the continental United States as well as other countries in the South Pacific. Within the Territory, Inter Island Airways offers regular flights to Ofu, Olosega and Ta'u. In March 2010, American Samoa got a federal grant of $2.5 million for airport improvements.

27. According to local media sources, the Territory has three FM stations and three AM stations, serving approximately 57,000 radios. One Government-owned television station broadcasts over three channels to approximately 14,000 television sets. Internet access is provided by the American Samoa Telecommunications Authority, a semi-autonomous government agency.

E. Water, sanitation system and utilities

28. The American Samoa Power Authority, which is Government-owned, provides water, wastewater, solid-waste and electric services to customers on five of the seven islands. The Authority provides drinking water to 90 per cent of the Territory from wells, with the remaining part being serviced by outer-village systems. According to a survey published in August 2010, the Authority loses up to 50 per cent of its water through leaky pipes and in some areas water has a high salt content. The survey also indicated that the design limitations of water pipes made their maintenance an extremely difficult task.

29. In 2010, the Governor announced that as a direct effect of the cannery's closing in 2009 and the wage increase, a further possible rise in the costs of shipping and imported goods, including the fuel used to generate electricity, was to be expected.

V. Social conditions

A. General

30. Known as "fa'asamoa", the Samoan way of life is based on the notion of mutual respect and sharing among the aiga (extended families), each featuring a common allegiance to a matai (chief), and it influences every aspect of the Territory's socio-economic fabric. As previously reported, since 2008, the Territory's legislature has been working to further strengthen the use of the Samoan language for classroom instruction in public schools, in tandem with English. To this end, in March 2009 the American Samoa Department of Education received $618,000 for grades from kindergarten to grade 12.

B. Labour and immigration

31. When the Chicken of the Sea cannery pulled out of American Samoa, it cited a 2007 federal law that mandated annual minimum wage hikes in the Territory up to the federal minimum wage of $7.25 an hour. The law was also cited by StarKist Co. in its decision to lay off 800 workers at its cannery in 2010. Subsequently, the United States President signed into law a bill delaying the implementation of the wage hike in American Samoa in 2010 and 2011.

32. Maintaining that it was an act of Congress that led to the layoffs, the Governor asked Washington, D.C., for direct payments to help affected workers who had lost their jobs. In June 2010, the United States House of Representatives passed legislation to help get American Samoa's economy in order. The legislation included a request to provide an $18 million tax credit to the Government of American

Samoa. The other two measures aimed at improving the economy are the American Samoa Protection of Industry, Resources and Employment Act and an additional $25 million within the framework of economic assistance.

33. American Samoa has its own immigration laws and entry conditions into the Territory, which are not the same as those applicable to the United States. As previously reported, a new immigration law for American Samoa came into force, giving the Attorney General, instead of a Government-appointed board, full authority over granting permanent resident status.

C. Education

34. Education in American Samoa is compulsory from 6 to 18 years of age. The education system is broadly based on that of the United States. According to the American Samoa Department of Education, there are 24 early childhood education centres, 23 elementary schools and 6 high schools in the Territory. The Department serves over 14,150 students in grades kindergarten to 12, early childhood education and special education.

35. The Department of Education has five school districts, each centred on a high school together with lower level elementary or "feeder schools". The Department has 472 teaching personnel in elementary education, 191 teaching personnel in secondary education, 18 teaching personnel in vocational education, 202 teachers in special education and 118 teaching personnel in early childhood education. American Samoa has a literacy rate of approximately 97 per cent.

36. The American Samoa Community College offers two-year degree courses in the arts and sciences and certificate programmes of proficiency in vocational and clerical skills, business and nursing.

37. In 2010, for the second consecutive year, the American Samoa Department of Education was granted the Teacher Shortage Areas designation by the United States Department of Education. This designation paves the way for teachers in those areas to apply for a federal loan deferment and/or cancellation.

D. Public health

38. The 2010 estimate for life expectancy in the Territory was approximately 73.72 years, 70.80 for males and 76.82 for females. The annual birth rate was estimated at 23.31/1,000 population and the annual death rate at 4.1/1,000 population. The fertility rate was estimated at 3.22 children per woman.

39. The main, semi-autonomous public hospital in the Territory has 150 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services in the Territory are available 24 hours a day. Dispensaries have been established in Ta'u and Ofu, providing services to the Manu'a Islands. In 2009, hospitals in Honolulu stopped accepting medical referrals from the Lyndon Baines Johnson Tropical Medical Center in American Samoa until a half million United States dollar debt was paid. Despite some financial woes, the Medical Center has paid back some $4 million of what it owes to the United States federal Government on an overpayment by Medicare.

40. In 2010, the Territory received $1 million in federal funds through the Grants to states for health insurance premium review programme. This programme, also known as the rate review grant programme, was authorized under the health-care reform enacted through the landmark Affordable Care Act, passed by the United States Congress in March 2010. The rate review grant is designed to help states and territories establish a process to monitor health insurance premiums offered by insurance companies and to ensure that consumers are protected from unreasonable, unjustified, or excessive premium increases.

41. In August 2010, the American Samoa Department of Health expressed concerns about the steady rate at which the people were contracting dengue fever. The number of cases in the first half of 2010 was already 282 (compared to 249 reported cases in the first six months of 2009).

E. Crime and public safety

42. Sexual crime victimizing children is on the increase in American Samoa, with the vast majority of cases taking place within families.[2] In April 2010, the Governor announced plans to increase penalties for those convicted of child sexual abuse. He said that the Administration planned to submit to the Fono a bill that would provide for a life sentence without possibility of parole. As previously reported, the Governor had also established the Sexual Offender Registration Notification Act Working Group to ensure compliance with the requirements of the Act and to provide counsel and input into strategic planning, development and implementation of the sex offender registry.

43. The Territory has continued to enhance cooperation with the Pacific Islands Chiefs of Police organization and the United States Department of Justice through its newly established Office of Territorial and International Criminal Intelligence and Drug Enforcement.

VI. Environmental protection and disaster preparedness

44. The American Samoa Environmental Protection Agency, funded by the United States Environmental Protection Agency, is mandated to protect human health and to safeguard the natural environment: air, water and land.

45. In January 2010, American Samoa received a relief fund of $49 million from the Federal Highway Administration for road infrastructure damaged by the earthquake, tsunami and flooding that occurred in September 2009.

46. In August 2010, nearly a year after the tragedy, American Samoa was ready to install a $1.9 million tsunami warning siren system funded by the United States Department of Homeland Security. In total, 39 sirens were in the process of being installed throughout the Territory. In terms of disaster preparedness, American Samoa has been allocated $1.85 million in federal grants from the Department of Homeland Security.

[2] *Atlantic Free Press*, 4 July 2008.

VII. Relations with international organizations and partners

47. American Samoa has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988. International labour conventions and recommendations are applicable to it. The Territory belongs to various regional bodies of the United Nations system, including the World Health Organization, for which it falls under the Regional Office for the Western Pacific and the Western Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies.

48. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Associations, the Asian South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme, the South Pacific Applied Geoscience Commission, the Secretariat of the Pacific Community and the Council of Pacific Arts. It also belongs to United States organizations, such as the National and Western Governors' Associations. The Government of American Samoa has signed memorandums of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

49. According to the administering Power, American Samoa, along with other United States Territories, requested to be allowed to interact more and to become an observer at regional political forums in the Pacific and in the Caribbean, such as the Pacific Islands Forum and the Caribbean Community.

VIII. Future status of the Territory

A. Position of the territorial Government

50. Section II of the present working paper reflects recent developments in American Samoa concerning its future political status.

B. Position of the administering Power

51. In a letter dated 2 November 2006 addressed to Congressman Faleomavaega, the United States Assistant Secretary of State for Legislative Affairs set forth the position of the Government of the United States on the status of American Samoa and other United States Insular Areas, which was considered equally valid for 2010. In his letter, the Assistant Secretary indicated that the status of the Insular Areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee. He also stated that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories and no mandate to engage the United States in negotiations on their status. In the letter, it was further stated that at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions, the federal Government did submit annual updates on

United States Territories to the Special Committee as a demonstration of United States cooperation as an administering Power and to correct any errors in information that the Special Committee might have received from other sources.

C. Action by the General Assembly

52. On 10 December 2010, the General Assembly adopted without a vote resolutions 65/115 A and B, based on the report of the Special Committee transmitted to the General Assembly (A/65/23) and its subsequent consideration by the Fourth Committee. Section I of resolution 65/115 B concerns American Samoa. Under that section's operative paragraphs, the General Assembly:

1. *Takes note* of the proposed amendments to the 1967 revised Constitution of American Samoa adopted at the fourth Constitutional Convention held in June 2010;

2. *Welcomes* the work of the territorial Government and legislature in accordance with the recommendations made by the Future Political Status Study Commission in preparation for the fourth Constitutional Convention, and commends the related efforts of the territorial Government to enhance public awareness of the Convention;

3. *Expresses appreciation* for the invitation extended in 2010 to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the Governor of American Samoa to send a visiting mission to the Territory, calls upon the administering Power to facilitate such a mission if the territorial Government so desires, and requests the Chair of the Special Committee to take all the steps necessary to that end;

4. *Requests* the administering Power to assist the Territory by facilitating its work concerning a public awareness programme recommended by the Future Political Status Study Commission in its 2007 report, consistent with Article 73 *b* of the Charter of the United Nations, and, in that regard, calls upon the relevant United Nations organizations to provide assistance to the Territory, if requested;

5. *Calls upon* the administering Power to assist the territorial Government in the diversification and sustainability of the economy of the Territory and to address employment and cost-of-living issues.